

**PARENTS AS GUARDIANS AD LITEM
IN DELINQUENCY CASES:
What to Expect from the Court
What the Court Expects from You**

This is a booklet for parents who serve as their child's Guardian ad Litem when their child is involved in a delinquency case in the Vermont Family Court. Sometimes the court process may be confusing. This booklet is designed to help you know what to expect from the court system and your child's attorney. You may want to keep this booklet with you to help answer your questions during your child's case.



Court Administrator's Office of the State of Vermont

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A. Introduction

This booklet helps parents to

- understand the court process,
- make decisions with their child during the court process, and
- get the services their child needs during and after the court case.

When a child is charged with a *delinquent* act, the case goes to Family Court. A parent usually acts as the child's **guardian ad litem**. This is a very important job.

This booklet gives you information on how to help your child as a **guardian ad litem**.

B. What Does “Delinquent” Mean?

In Vermont, a “*delinquent act*” is:

an act designated a crime under the laws of this state, or of another state if the act occurred in another state, or under federal law.

That same law says a “*delinquent child*” is a child who commits a delinquent act.

Your child is charged with being a “delinquent child” because the State’s Attorney believes that the child did something that would be a crime in this state if the child were an adult.

Children often need help in these situations. Instead of filing a case in adult court, the State’s Attorney files a “delinquency” petition in Family Juvenile Court.

C. What is a Guardian Ad Litem?

The Family Court wants to be sure that your child’s best interests are protected. Sometimes, not everyone in the case agrees about what is best for your child. The Court appoints one person to keep only the child’s best interests in mind, no matter what else is going on.

That person is called the **guardian ad litem**, or **GAL**. Whenever possible, the Court appoints one of the child’s parents to be the GAL. In most cases a parent is only at court because his or her child has been charged with a delinquent act, and the parent’s only concern is that everything that happens is done in the child’s best interest. In those cases, one of the parents will be appointed to be the child’s GAL.

In some cases, the Court will have a trained volunteer act as the GAL instead of the parent, when the child is charged with a delinquent act **AND, one or all of the following:**

- it’s a delinquent act **against** the parent, or

- it's a delinquent act against a brother or sister or other family member
- there are other parent issues;
- there are other conflicts between the parent and child.

This booklet will explain what you will have to do in your child's court case if the court appoints you as the GAL for the child.

D. What is Your Role as *Guardian Ad Litem*?

As your child's **GAL**, you will have to:

- ***Understand your child's case and the court process.*** Juvenile cases can be complicated. Your child's attorney has been through a lot of them. Please ask your child's attorney about parts of the case you do not understand.
- ***Be sure your child understands the case.*** Sometimes, your child will tell the attorney that they understand what is going on, but really, the child is confused. You know your child much better than the lawyer does. Please let your child's attorney know if your child needs help understanding what is happening.
- ***Help your child to make choices in the case.*** Any decisions that your child makes in the case will be made with the child's attorney. The three of you should work together to make those decisions. This does not mean, necessarily, that you will always agree on a decision.
 - Your child may want to do something that you do not think is in your child's best interest. Your job is to always keep your child's best interest in mind, so a disagreement may happen. Be sure to talk with your child and your child's attorney so that all of you understand each other.
 - Sometimes, you will have to tell the Judge that you do not agree with your child's decision and why. Tell your child's attorney before you tell the Judge in Court.
- ***Keep in touch with your child's attorney.*** (Your child will be appointed a public defender or a private attorney if you meet income requirements. The role of your child's attorney is described more on page 4 of this booklet.)
 - What you and your child tell your child's attorney is **confidential**.
 - The attorney needs to know if anything changes in your child's life or if anything new happens that could affect the court case.
 - You can help your child by giving information to your child's attorney about:
 - anything you know about the facts in the case
 - your child in general
 - other people named in the delinquency petition
 - other people who are important in your child's life

E. What is the Role of the Juvenile Court?

When a child commits a delinquent act, it may be that the child is having some kind of problem. Vermont Family Court wants to help your child sort out those problems.

The Family Court has two main parts to play in your child's case:

1. The Judge will determine if the charges in the petition are true. This is the “*merits*” stage of the case. This part is like the trial in a criminal case, except there is no jury and the proceeding is not open to the public.
2. If the Judge decides that the petition has “*merit*”, the Court next looks at what steps should be taken to prevent further delinquent acts by the child. This part of the case is called the “*disposition*” and is like the sentencing in a criminal case.

F. Who Else is Involved in the Case?

You will work with several people during your child's case:

The State's Attorney

The State's Attorney's Office usually files all juvenile petitions in Family Court.

There is usually one Deputy State's Attorney in each county who covers the delinquency cases. That Deputy State's Attorney is responsible for:

- filing the delinquency petition against your child
- providing evidence that supports the charge in the petition
- negotiating to settle the case by:
 - reducing the charges in the original delinquency petition
 - dismissing some or all of the charges
- if no agreement is reached, presenting the evidence and witnesses that the State believes will prove that your child committed the delinquent act
- referring your child to a Court Diversion Program in your community to:
 - possibly have the case dismissed
 - avoid a criminal record
 - make amends
 - do community service
 - write letters of apology

- pay money to a victim (“make restitution”)

Your Child’s Attorney

Your child will be appointed a public defender, or other assigned counsel.

As the **GAL**, you will work closely with your child’s attorney to make sure that:

- the attorney has enough time to talk with your child
- the attorney has all of the information about your child that is needed
- your child understands the court proceedings.

Sometimes, you will meet with your child and the child’s attorney. Other times, your child’s attorney will need to meet with your child alone. It is important that both kinds of meetings happen.

Who will be in the Courtroom?

The **Judge** is in charge of the courtroom. The Judge makes all the final decisions in your child’s case.

The **Court Officer** is in charge of keeping order in the courtroom. The Court Officer makes sure the right parties are in the courtroom at the right time for the right hearing.

The **Court Recorder** makes sure that there is a record of everything that happens in the courtroom so that there is a complete record of all of the hearings.

The **Court Clerk** manages the court office and schedules court hearings.

The **State’s Attorney** presents the delinquency charges.

The **Public Defender** represents your child.

Your Child

You, as parent and GAL

The Probation Officer/DCF Social Worker:

- may be in court for some or all of the hearings
- If the Court finds your child is delinquent, a Department For Children and Families (“DCF”) social worker will be your child’s juvenile probation officer. Social workers from DCF work to help children and their families.
- If the Court decides that your child is a delinquent child, the DCF probation officer will:

- talk to people who know your child
- talk to any victims
- recommend to the Judge what should be done to help your child
- write a **disposition report** for the Court with all of that information in it. The Court will hold a hearing to talk about the report and the juvenile probation officer will come to that hearing.

G. What is Your Role in the Court as your Child's GAL?

As your child's **GAL**, you want to make sure your child's best interests are protected. So, what exactly do you have to do as **GAL**?

There are a couple of important parts to your Role:

Come to Court with your child. You and your child must come to every court hearing. If there is a reason why either of you cannot be there for a hearing, let your child's attorney know **as soon as possible** so that the attorney can ask the Court to change the hearing date.

Tell your child's attorney your thoughts about the case. Your child's attorney needs information from you. You know your child better than the attorney **and** you know what is happening with your child day to day.

Give the Judge your opinion about the case – but only if the Judge asks you! Like everyone else in the Courtroom, you can only talk when the Judge asks you to say something. There will be times when you have nothing to add. Again, tell your child's attorney if you want to speak in Court.

When will the Judge ask you to talk in Court?

- **If** your child intends to admit to the delinquency charges, the Judge will ask you if you think it is a good idea (in your child's best interest) to admit to the charge
- **If** the Judge finds your child committed the delinquent act, the Judge will be setting services and conditions. You will be asked your opinion about those conditions and services.

When will you NOT Talk in Court? If there is a hearing with evidence and witnesses, the Judge will **not** ask for your opinion. The Judge is the only one deciding if the State's Attorney has proven the charge in the petition.

H. What are the Stages in a Delinquency Case?

You and your child will be required to attend court hearings. The Court will let you know when you and your child need to attend Court hearings. The kinds of hearings you will have to attend are:

Preliminary Hearing

This is the first hearing **IF** your child is **NOT** in state custody because of the delinquency charge. Before the ***preliminary hearing***, you and your child will meet with your child’s attorney.

The two things that always happen at a preliminary hearing are:

Your child will tell the Court what the “***plea***” will be. The two pleas in juvenile court are

- an “***admission***” – your child says that s/he did commit the act in the petition,

OR

- a “***denial***” – the child says that s/he did not commit the act in the petition

If your child denies the charges, the Court will set a ***merits hearing***, described earlier.

If there is a denial, the Court may set ***Conditions of Release*** at the Preliminary Hearing. ***Conditions of Release*** are rules your child must follow while the case is ongoing. These are the rules for your child:

- Follow the rules of the house
- Give the child’s attorney and the Court your child’s address and telephone numbers to reach your child
- Attend school and do assigned schoolwork and follow school rules
- Don’t get into any other trouble
- Other conditions imposed by the judge such as:
 - Don’t associate with certain people (the alleged victim in a case or other people charged in the same case)
 - Be home by a certain curfew
 - Don’t go to certain places

At the ***preliminary hearing***, there might also be discussion about the other hearings that will happen later in the case.

Detention Hearing

This will be the first hearing **IF** your child **IS** taken into state custody

- This will be the first hearing if your child is taken into state custody at the beginning of a delinquency case. A child is taken into state's custody if the Judge believes that your child is in danger of hurting him or herself, or hurting another person.
- Sometimes the Court can order the child to come into state custody before any hearing is held.
- Either way, the Court has to have a **detention hearing** within forty-eight (48) hours.
- At a **detention hearing**, the Judge decides whether the child will stay in state's custody while the court case is open if:
 - It is the best thing **for the child** overall to be in state custody; **or**
 - It is the best thing **for members of the public** that the child stays in state custody.

Otherwise, your child will return to your family.

Status Conferences

- The Court will schedule one or more status hearings, or **status conferences**, after the **preliminary hearing** to find out how the case is going.
- Court time is hard to come by, and cases often settle, so the Court wants to keep track of what progress is being made in your child's case.
- If it doesn't look like the case will settle, the Court will see how much time will be needed for the **merits hearing**. The Court will then schedule the hearing and let you know when it will be held.

Merits Hearing

The **merits hearing** is like a criminal court "trial", except there is no jury and the proceeding is not open to the public. At a **merits hearing**,

- the State's Attorney must present enough evidence to the Court to prove "**beyond a reasonable doubt**" that your child committed the delinquent act.
- Your child's attorney will cross-examine the State's witnesses, and present evidence for your child.

Your role in the merits hearing is limited. Generally,

- the case **against** your child will be presented by the State's Attorney,
- the defense **for** your child will be presented by your child's attorney, and
- the Judge will decide who is right.

Disposition Hearing

If the Court finds that your child did not commit the delinquent act, then the case will be DISMISSED.

If the Court decides your child committed the delinquent act, the Court will schedule a ***disposition hearing***.

At the ***disposition hearing***, the Court is considering how to prevent future delinquent acts. Your child will be placed on ***juvenile probation*** and supervised by a juvenile probation officer from DCF.

Juvenile Probation

Your child's conditions of probation may be some or all of the following:

- paying ***restitution*** for any damages caused by the delinquent act
- performing ***community service***
- going to ***counseling*** sessions, such as:
 - ***anger management*** evaluation and treatment
 - ***substance abuse*** evaluation and treatment
 - ***general*** individual or group counseling
- going to the ***Restorative Justice Panel*** and following their conditions

The Judge will issue a ***Juvenile Probation Certificate*** that lists all of the conditions that your child must follow on probation. That certificate will be signed:

- by the Judge,
- by your child,
- by you as your child's **GAL**, and
- by the juvenile probation officer from DCF.

Review Hearings

The Court will hold review hearings once a year to talk about the case. At the hearing, the Judge will make sure that your child is getting the services and help that s/he needs. If your child is in state's custody, the Court will decide if they should stay in state's custody. All of the same people will be involved in those hearings each year.

Probation Violation Hearings

Sometimes a child does not follow the conditions of probation. If that happens, the juvenile probation officer may file a ***Notice of Probation Violation*** with the Court. If this happens, you and your child will come to Court for a ***probation violation hearing*** with the Judge.

Several things can happen at a ***probation violation hearing***:

- the Judge can let your child go with a warning and make no changes to the probation conditions
- the Judge can set up extra or different probation conditions
- the Judge can order that your child come into state's custody

It is important for you to help your child understand the seriousness of violations of his or her probation.

I. What Services are Available to the Child and the Child's Family?

The Family Court wants to see your child receive the services he/she needs. Those services differ from county to county and may include:

- mental health counseling for children and/or parents, including:
 - individual work
 - family work
 - drug and alcohol abuse evaluation and counseling
 - anger management evaluation and counseling
 - psychosexual evaluation and counseling
- educational assessments
- mentoring for younger children (such as Big Brother/Big Sister programs)
- job referrals and job training for older children
- help with parenting, including:
 - parenting classes

- parenting education in the home such as Intensive Family Based Services
- credit or budget counseling

Your child's **juvenile probation officer** can help your child and your family figure out which services work for you, and then help you to get those services in place.

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